

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

MARK MCCOURT LIEBER, JR.,
TDCJ# 01969926,

Petitioner,

v.

LORIE DAVIS, Director,
Texas Department of Criminal Justice,
Correctional Institutions Division,

Respondent.

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SA-19-CA-12-FB (HJB)

**ORDER DIRECTING RESPONDENT
TO ANSWER PETITION ON THE MERITS**

The matter before the Court is *pro se* Petitioner's 28 U.S.C. § 2254 Petition for a Writ of Habeas Corpus by a Person in State Custody (ECF No. 1). Petitioner has paid the \$5.00 filing fee. (See Docket Entry 3.) Having reviewed the submissions, and in accordance with Rules 4 and 5 of the Rules Governing Section 2254 Cases, the Court orders the Respondent to file an answer or other responsive pleading to the petition.

1. **Service on Respondent.** The Respondent in this case is represented by the Office of the Attorney General ("AG"). In accordance with a standing agreement between the Court and the AG, the Court electronically served the designated AG representative, Edward L. Marshall, Assistant Attorney General, Chief of the Criminal Appeals Division, at edward.marshall@oag.texas.gov, as well as Laura Haney at laura.haney@oag.texas.gov.
2. **Respondent's Answer.** Respondent must answer the petition within **thirty (30) days** after receiving this order. In addition to raising any affirmative defenses, **Respondent is ordered to respond to each of the allegations raised in the petition on the merits.** The answer, or other responsive pleading, should comply with Rule 5 of the Rules Governing Section 2254 Cases and Rule 12 of the Federal Rules of Civil Procedure. Respondent must serve Petitioner with a copy of the answer or other responsive pleading in accordance with Rule 5(b) of the Federal Rules of Civil Procedure.

3. **State Court Records.** Respondent must provide the Court with the relevant state court or administrative records on or before thirty (30) days after filing an answer or other responsive pleading.
4. **Petitioner's Reply.** Petitioner may file any reply to an answer or other pleading filed by Respondent on or before **twenty (20) days** after Petitioner receives the answer or other pleading.
5. **Duty to Serve Opposing Counsel.** Under Rule 5 of the Federal Rules of Civil Procedure and Local Court Rule CV-5, Petitioner must serve a copy of any pleading, motion, or other document filed upon counsel for Respondent (the attorneys listed in Paragraph 1). Further, when filing a document, Petitioner must include a certificate of service that indicates the date and method (such as by hand-delivery, certified mail, first class mail, etc.) being used to serve Respondent's counsel of record. If Petitioner files a document that does not include this certificate of service, the Court will disregard the filing.
6. **Duty to Inform Court of Change of Address.** If Petitioner's address changes, Petitioner must immediately notify the Clerk and Respondent's counsel in writing of the change. Petitioner should file a document with the new address with the Court and title it "Notice to the Court of Change of Address." This document should not include any motions or other matters. If Petitioner fails to immediately notify the Clerk and Respondent's counsel of any change in Petitioner's mailing address, the Court could dismiss the petition.
7. **Consent to Magistrate Judge.** Because of the District Court's busy docket, the parties may wish to consent to have this case decided by a Magistrate Judge. If the parties consent, then a Magistrate Judge and not a District Judge will preside over the case and will enter the final judgment. *See* 28 U.S.C. § 636(c). Within **thirty (30) days from the date of this Order**, the parties must complete the attached form, which informs the Court whether or not the parties consent, and file it with the Court.

It is so **ORDERED**.

SIGNED on January 31, 2019.



Henry J. Bemporad
United States Magistrate Judge